

# **EXHIBIT 4**

---

**From:** Kleinbrodt, Julian W.  
**Sent:** Wednesday, April 17, 2024 11:13 AM  
**To:** Jeffrey; Keith Mathews; [mkernan@kernanlaw.net](mailto:mkernan@kernanlaw.net)  
**Cc:** Brass, Rachel S.  
**Subject:** RE: Request to coordinate

All,

There is no basis to issue subpoenas to Apple or anyone else in this case. First, this case has been dismissed, and a final judgment has been entered. No action is thus “pending” for which a subpoena could issue. Fed. R. Civ. P. 45(a)(2); *see also Gresset v. City of New Orleans*, No. CV 17-16628, 2019 WL 459182, at \*3 (E.D. La. Feb. 6, 2019) (finding court “correctly denied plaintiff’s request for a subpoena because plaintiff’s claims had already been dismissed when he requested the subpoena”); *In re Taxotere (Docetaxel) Prod. Liab. Litig.*, No. 2:16-CV-15471, 2024 WL 128608, at \*6 (E.D. La. Jan. 11, 2024) (“Since Plaintiff unquestionably attempted to issue the subpoenas after her case was dismissed, the subpoenas were issued without this Court’s authority, are null and void, and were never enforceable.”). Second, the Local Rules make clear that “[n]o oral testimony will be received in connection with any motion, unless otherwise ordered by the assigned Judge.” L.R. 7-6. Judge Chen has not ordered oral testimony to be received, and Apple will oppose Plaintiff’s request for an evidentiary hearing. Third, the upcoming hearing is set, as you acknowledge, only “on Dr. Isaacs’ motion”—whom counsel has repeatedly told us they do not represent in this litigation. *See, e.g.*, Aug. 29, 2022 Email from K. Mathews; Aug. 26, 2022 Email from K. Mathews; Jan. 25, 2022 Email from K. Mathews. Issuing subpoenas without a basis to do so is improper. *Mick Haig Prods., e.K. v. Does*, No. 3:10-CV-1900-N, 2011 WL 5104095, at \*5 (N.D. Tex. Sept. 9, 2011). Apple reserves all rights.

There is nothing else for us to discuss or coordinate at this time, and we will not indulge the improper inquiry into what we, as Apple’s counsel, have communicated to our client.

Julian

**Julian W. Kleinbrodt**  
Partner

T: +1 415.393.8382 | M: +1 415.377.0902  
[JKleinbrodt@gibsondunn.com](mailto:JKleinbrodt@gibsondunn.com)

**GIBSON DUNN**  
Gibson, Dunn & Crutcher LLP  
One Embarcadero Center Suite 2600, San Francisco, CA 94111-3715

---

**From:** Jeffrey <[jeffreydi@gmail.com](mailto:jeffreydi@gmail.com)>  
**Sent:** Monday, April 15, 2024 2:11 PM  
**To:** Keith Mathews <[Keith@awplegal.com](mailto:Keith@awplegal.com)>  
**Cc:** Kleinbrodt, Julian W. <[JKleinbrodt@gibsondunn.com](mailto:JKleinbrodt@gibsondunn.com)>; Brass, Rachel S. <[RBrass@gibsondunn.com](mailto:RBrass@gibsondunn.com)>  
**Subject:** Re: Request to coordinate

**[WARNING: External Email]**

To clarify, date is May 23, 2024. This means subpoenas must issue by May 2, per the 3 week request we made to the Court.

Please also confirm my declaration has been sent to Apple Board of Directors for appropriate response within sixty days.

Dr Isaacs

On Mon, Apr 15, 2024 at 4:51 PM Keith Mathews <[Keith@awplegal.com](mailto:Keith@awplegal.com)> wrote:

Julian,

As you know I represent the proposed class. I will be sending subpoenas for the evidentiary hearing on Dr. Isaacs' motion. At this point we have identified Apple, Microsoft, Twitter and Epic as witnesses. Can you suggest a representative for Apple and do you have any requests for our witnesses?

Can we agree on the proposed date of May 2024, do you have any conflicts with that date?

We look forward to your cooperation in coordinating this hearing.

Regards,

Keith